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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,612	09/18/2003	Carlos A. Rivera-Cintron	7463-26	1435

55794 7590 06/10/2010  
Guntin Meles & Gust, PLC (Mot)  
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EXAMINER
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LONG, FONYA M

ART UNIT	PAPER NUMBER
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3689

NOTIFICATION DATE	DELIVERY MODE
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06/10/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/666,612	<b>Applicant(s)</b> RIVERA-CINTRON, CARLOS A.	
	<b>Examiner</b> FONYA LONG	<b>Art Unit</b> 3689	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This communication is a Non-Final Office Action rejection on the merits in response to communication received on May 24, 2010. Claims 1, 3, and 4 have been amended. Claims 12-25 are withdrawn. Claims 1-11 are currently pending and have been addressed below.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 24, 2010 has been entered.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strub et al. (6,825,875) in view of Rosenberg et al. (6,429,846).

**As per Claim 1**, Strub et al. discloses a method of capturing audio, video, and additional sensory information during an event for presentation on a portable mobile phone device (Abstract, discloses recording audio, video, and physiological (i.e. additional sensory information) information during an event (Col. 40, Lines 12-31) using a cell phone (i.e. portable mobile phone device)), comprising:

recording a multimedia presentation of the event having video and audio in a format suitable for presentation at the portable mobile phone device (Col. 8, Lines 30-67, discloses recording a multimedia presentation of an event using a recording unit having video and audio recording capabilities. Col. 40, Lines 12-31, discloses the recording unit being a cell phone (i.e. portable mobile phone device). Col. 41, Line 54-Col. 42, Line 13, discloses the recording unit being cable of presenting the multimedia presentation recorded.); and

presenting the multimedia presentation on the portable mobile phone device (Col. 40, Lines 12-31, discloses the recording unit being a cell phone (i.e. portable mobile phone device). Col. 41, Line 54-Col. 42, Line 13, discloses the recording unit being cable of presenting the multimedia presentation recorded.).

Strub et al. also discloses combining and synchronizing during the event haptic information with the multimedia presentation recorded in the format suitable for presentation at the portable mobile phone device (Col. 26, Line 42-Col. 27, Line 35, discloses recording, combining, and synchronizing physiological data and biometric data with the multimedia presentation. Col. 40, Lines 12-31, discloses the recording unit being a cell phone (i.e. portable mobile phone device). Col. 41, Line 54-Col. 42, Line 13,

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discloses the recording unit being cable of presenting the multimedia presentation recorded.). Strub et al. fails to explicitly disclose having haptic information simulating the motion experienced during the event, and a vibration device.

Rosenberg et al. discloses haptic feedback for touchpads and other touch controls with the concept of combining haptic information simulating the motion experience during the event with the multimedia presentation recorded (Col. 3, Lines 31-63; Col. 13, Lines 22-67, discloses a portable device (Col. 3, Lines 39-63. discloses portable devices include devices worn on the person or handheld or used with a single hand of the user. Examiner interprets this to include a mobile phone device which is considered a handheld device.) providing vibration (i.e. haptic information) simulating the motion experience of a game where the user-controlled racing car is driving on a dirt shoulder of a displayed road (i.e. an event with a multimedia presentation recorded)); and selectively activating a vibration device within the portable mobile phone device in accordance with the haptic information (Col. 3, Lines 31-63; Col. 5, Lines 11-31; Col. 13, Lines 22-67, actuators (i.e. vibration device) comprised in a portable handheld device selectively providing varying-frequency vibration can be output when a vehicle engine states and rumbles (i.e. selectively activating the actuator in accordance with the haptic information)).

Therefore, from the teaching of Rosenberg et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hybrid recording unit device for use in recording an event of Strub et al. to include haptic information simulating the motion experienced during the event; and a vibration device

as taught by Rosenberg et al. in order to provide a sensing and enhance human experiences when viewing the multimedia presentation.

**As per Claim 2**, Strub et al. discloses the step of recording an event participant's heartbeat simultaneously with the recording of the video and audio (Col. 8, Lines 44-67, discloses a recording unit adapted to record visual (i.e. video) and audio data in reference to an event simultaneously with physiological data (i.e. heart rate) of a participant).

**As per Claim 3**, Strub et al. discloses synchronizing audio, video, and the event participant's heartbeat (Col. 8, Lines 44-67, discloses a recording unit adapted to record visual (i.e. video) and audio data in reference to an event simultaneously with physiological data (i.e. heart rate) of a participant).

However, Strub et al. fails to explicitly disclose synchronizing haptic information with the multimedia presentation recorded.

Rosenberg et al. discloses haptic feedback for touchpads and other touch controls with the concept of synchronizing the haptic information with the multimedia presentation recorded (Col. 3, Lines 31-63; Col. 13, Lines 22-67, discloses synchronizing via outputting a corresponding haptic effect (i.e. vibration) with the multimedia presentation recorded (i.e. games or simulations)).

Therefore, from the teaching of Rosenberg et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hybrid recording unit device for use in recording and event of Strub et al. to include synchronizing haptic information with the multimedia presentation recorded as taught by

Rosenberg et al. in order to provide a sensing and enhance human experiences when viewing the multimedia presentation.

**As per Claim 4**, Strub et al. discloses a system of recording and distributing a multimedia presentation of an event experienced by a participant to a portable mobile phone device (Col. 41, Line 54-Col. 44, Line 21, discloses recording a multimedia presentation on a portable recorded and presenting the multimedia recording on a portable recording display device), comprising:

at least one digital camera for recording the event experienced by the participant in a video presentation in a format suitable for presentation at the portable mobile device (Col. 14, Lines 16-58, discloses a digital video camera used for recording an event experienced by a participant. Col. 40, Lines 12-31, discloses the recording unit being a cell phone (i.e. portable mobile phone device). Col. 41, Line 54-Col. 42, Line 13, discloses the recording unit being cable of presenting the multimedia presentation recorded.); and

a processor for combining and synchronizing the haptic information with the video presentation forming the multimedia presentation in the format suitable for presentation at the portable mobile device (Col. 12, Lines 4-52, discloses a data processing device (i.e. processor) which compresses the audio and video data recording in order provide a display (i.e. presentation) of the audio and video. Col. 40, Lines 12-31, discloses the recording unit being a cell phone (i.e. portable mobile phone device). Col. 41, Line 54-Col. 42, Line 13, discloses the recording unit being cable of presenting the multimedia presentation recorded.).

Although, Strub et al. discloses a transmitter (Col. 12, Lines 4-52). Strub et al. fails to explicitly disclose the transmitter being wireless. Strub et al. also fails to explicitly disclose a haptic information generator and a vibration device.

Rosenberg et al. discloses haptic feedback for touchpads and other touch controls with the concept of a haptic information generator for generating signals simulating the motion experienced at the event while the participant is experiencing the event (Claim 37, via the actuator receiving signals from force information output by the computer device); a wireless transmitter for transmitting the multimedia presentation to a portable mobile phone device (Col. 5, Lines 32-40, via touchpad connected to the computer via wireless transmission. Col. 3, Lines 39-63, discloses additional embodiments for a portable device which includes devices worn on the person or handheld or used with a single hand of the user. Examiner asserts it would have been obvious to one of ordinary skill in art at the time the invention was made to have a handheld device include a mobile phone device such as a smartphone.); and a vibration device (Col. 5, Lines 11-30, discloses the actuator providing haptic sensations such as vibrations to a user in contact with the device).

Therefore, from the teaching of Rosenberg et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hybrid recording unit device for use in recording an event of Strub et al. to include a haptic information generator; a wireless transmitter; and a vibration device as taught by Rosenberg et al. in order to provide a sensing and enhance human experiences when viewing the multimedia presentation.

**As per Claim 5**, Strub et al. discloses a heart monitor for recording the heart beat of the participant simultaneously with the recording of the event (Col. 5, Lines 49-57, discloses an ECG monitoring device (i.e. heart monitoring device) being used simultaneously with the digital video camera).

**As per Claim 6**, Strub et al. discloses the event being selected from the group comprising an amusement ride, a parachute jump, a concert, a sporting event, and a travel adventure (Col. 2, Lines 55-65, discloses the event to including hiking (i.e. a travel adventure) or an amusement park).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have an amusement park include amusement rides because it is old and well known to have rides at an amusement park.

**As per Claim 7**, Strub et al. discloses the event being an amusement ride (Col. 2, Lines 55-65, discloses the event to include an amusement park).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have an amusement park include amusement rides because it is old and well known to have rides at an amusement park.

However, Strub et al. fails to explicitly disclose the haptic information being a predetermined signal.

Rosenberg et al. discloses haptic feedback for touchpads and other touch controls with the concept of the haptic information being a predetermined signal (Col. 7, Lines 50-65, via different control signals being provided to an actuator to provide vibration output).

Therefore, from the teaching of Rosenberg et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hybrid recording unit device for use in recording an event of Strub et al. to include haptic information being a predetermined signal as taught by Rosenberg et al. in order to in order to provide a sensing and enhance human experiences when viewing the multimedia presentation.

**As per Claim 8**, Strub et al. discloses the event being recorded from the perspective selected from the group comprising the participant's face and the participant's visual field (Col. 15, Line 54-Col. 16, Line 26, discloses the location of the recorded at which the visual data acquisition device is mounted being the recorder's head in order to obtain a visual point of view of the event).

**As per Claim 9**, Strub et al. discloses the claimed invention as applied to Claim 4, above. However, Strub et al. fails to explicitly disclose a distribution computer.

Rosenberg et al. discloses haptic feedback for touchpads and other touch controls with the concept of a distribution computer that uploads the multimedia presentation and synchronizes the multimedia presentation with the haptic information (Col. 6, Lines 7-23, via a host computer running (i.e. uploading) video or computer game, simulation, or a virtual reality training program. Col. 3, Lines 31-63; Col. 13, Lines 22-67, discloses synchronizing via outputting a corresponding haptic effect (i.e. vibration) with the multimedia presentation recorded (i.e. games or simulations)).

Therefore, from the teaching of Rosenberg et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hybrid

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recording unit device for use in recording an event of Strub et al. to include a distribution computer as taught by Rosenberg et al. in order to in order to provide a sensing and enhance human experiences when viewing the multimedia presentation.

**As per Claim 10**, Strub et al. discloses a heart rate file generated from the heart monitor (Col. 25, Line 62-Col. 26, Line 28, discloses a physiological monitoring device that monitors heart rate (i.e. heart monitor) and stores the physiological information on the recording device). However, Strub et al. fails to explicitly disclose a distribution computer.

Rosenberg et al. discloses haptic feedback for touchpads and other touch controls with the concept of a distribution computer that uploads the multimedia presentation and synchronizes the multimedia presentation with the haptic information (Col. 6, Lines 7-23, via a host computer running (i.e. uploading) video or computer game, simulation, or a virtual reality training program. Col. 3, Lines 31-63; Col. 13, Lines 22-67, discloses synchronizing via outputting a corresponding haptic effect (i.e. vibration) with the multimedia presentation recorded (i.e. games or simulations)).

Therefore, from the teaching of Rosenberg et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hybrid recording unit device for use in recording an event of Strub et al. to include a distribution computer as taught by Rosenberg et al. in order to in order to provide a sensing and enhance human experiences when viewing the multimedia presentation.

**As per Claim 11**, Strub et al. discloses a monitor for viewing at least a portion of the multimedia presentation (Col. 12, Lines 4-52, via a video and audio recording display device that displays the audio and video recording).

### ***Response to Arguments***

4. Applicant's arguments filed May 24, 2020 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that Strub fails to disclose presentation of the multimedia presentation on a mobile communication device such as a mobile phone device. Examiner respectfully disagrees. Examiner asserts Strub discloses presenting the multimedia recording on a portable recording display device, wherein the portable recording display device is a cell phone (Col. 40, Lines 12-31; Col. 41, Line 54-Col. 44, Line 21).

Applicant also argues the Rosenberg fails to disclose a mobile phone device having a vibrator that selectively activates in accordance with the haptic information captured during the recording of an event. Examiner respectfully disagrees. Examiner asserts Rosenberg discloses additional embodiments for a portable device which

includes devices worn on the person or handheld or used with a single hand of the user (Col. 3, Lines 39-63), wherein the portable device provide haptic information (i.e., vibration with the multimedia presentation recorded (Col. 3, Lines 31-63; Col. 13, Lines 22-67). Examiner asserts it would have been obvious to one of ordinary skill in art at the time the invention was made to have a handheld device include a mobile phone device such as a smartphone.

As per Claim 6, Applicant has failed to recite how the claimed limitations overcome the Strub reference. Applicant simply provides what the events disclosed in Claim 6 are directed to.

As per Claims 9-11, Applicant argues that the Strub and Rosenberg combination fail to disclose the presentation of the multimedia presentation on a mobile phone device. Examiner respectfully disagrees. Examiner asserts Strub discloses presenting the multimedia recording on a portable recording display device, wherein the portable recording display device is a cell phone (Col. 40, Lines 12-31; Col. 41, Line 54-Col. 44, Line 21). Applicant also argues that the Strub and Rosenberg combination fails to disclose a wireless transmitter for transmitting the multimedia presentation to the portable mobile phone device having a vibration device. Examiner respectfully disagrees. Examiner asserts Rosenberg discloses (Col. 5, Lines 32-40) a touchpad connected to the computer via wireless transmission. Rosenberg also (Col. 3, Lines 39-63) discloses additional embodiments for a portable device which includes devices worn on the person or handheld or used with a single hand of the user. Examiner asserts it would have been obvious to one of ordinary skill in art at the time the invention was

made to have a handheld device include a mobile phone device such as a smartphone.); and a vibration device (Col. 5, Lines 11-30) via the actuator providing haptic sensations such as vibrations to a user in contact with the device. Applicant also argues that the Strub and Rosenberg combination fails to disclose a distribution computer that uploads the multimedia presentation and synchronizes the multimedia presentation with the haptic information. Examiner respectfully disagrees. Examiner asserts Rosenberg discloses a distribution computer that uploads the multimedia presentation and synchronizes the multimedia presentation with the haptic information via Col. 6, Lines 7-23, discloses a host computer running (i.e. uploading) video or computer game, simulation, or a virtual reality training program. Col. 3, Lines 31-63; Col. 13, Lines 22-67, discloses synchronizing via outputting a corresponding haptic effect (i.e. vibration) with the multimedia presentation recorded (i.e. games or simulations). Examiner asserts that Strub discloses the concept of a heart rate file being generated from the heart monitor to be incorporated in the multimedia presentation (Col. 25, Line 62-Col. 26, Line 28, discloses a physiological monitoring device that monitors heart rate (i.e. heart monitor) and stores the physiological information on the recording device which provides a multimedia presentation.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon-Thurs. 7:30am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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